THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 18906 OF 2006

DATED: 20.09.2006

Between:

Malisetty Koteswara Rao /o late Kotaiah
Ro Polakampadu, Undaalli, Tadepalli Mandal,
Guntur District and others.

... PETITIONERS

And:

The Government of A.P.,
rep., by its Principal Secretart,
Revenue (Endowments) Department,
Secretariat, Hyderabad and others.

...**RESPONDENTS**

THE HON'BLE SRI JUSTICE GODA RAGHURAM

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ORAL ORDER:

The writ petition is directed against the proposal of the fourth respondent-Devasthanam, proposing to conduct a public auction for grant of leasehold rights of the lands in an extent of Acs.3.77 cents in Sy.No.3/1, Polakampadu, Undavalli, Tadepalli Mandal, Guntur district.

The four petitioners claim to have been cultivating tenants of Sri Ramalingeswaraswamy temple, Polakampadu village. This temple is said to have been adopted by the fourth respondent-Devasthanam. Petitioners 1 to 4 claim to be members of a joint family, in which the first petitioner is the father of petitioners 2 to 4 and the head of the family. The first petitioner is claimed to be the tenant of the land and all the petitioners to be cultivators of the said land, an agricultural land. The petitioners claim to be landless poor persons entitled to the benefits under Section 82 of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act"). They also assert to have been long term tenants by paying makthas regularly. They claimed that the leases in their favour have been extended from time to time upto 2006, and also assert that the fourth respondent issued a notice under Rule 5(1) of the A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules

2003, (for short “the Rules”). They also assert that on 24.05.2003 they applied to the third respondent requesting continuance as tenants, and also to have applied to the said respondent along with documentary evidence in support of the plea for recognition as landless poor persons.

According to the petitioners, the fourth respondent issued a notice dated 22.01.2005 calling upon them to pay maktha and they paid the same. However, the fourth respondent, on 23.05.2005, notified public auction of different lands belonging to the said Devasthanam in different survey numbers, including the land under the cultivation of the petitioners.

Further, according to the petitioners, the first petitioner received a notice, dated 16.06.2005, from the third respondent to attend the third respondent’s office on 27.06.2005 for enquiry into their claim for being landless poor persons. They attended the enquiry on 27.06.2005 and state to have furnished all the information. They also assert that the third respondent orally assured that they would not be disturbed and may be declared as landless poor persons at the earliest opportunity.

While so, assert the petitioners, on 01.09.2006 certain officers of respondents 1 to 3 came on to the land under the cultivation of the petitioners and informed them to vacate the land. Immediately, they went to the office of the third respondent, but he was not available. They had been threatened to be evicted by force. They also made representations to several officers mentioned in para 5 of the writ petition. In para 8 of the writ petition, petitioners state that the lease was granted in 1954. Petitioners also allege that the auction notification for grant of

leasehold rights of agricultural lands belonging to the fourth respondent-Devasthanam was not published in accordance with the procedure mandated by the Rules.

On the aforesaid factual assertions, petitioners assail the public auction notification issued by the fourth respondent on 23.05.2005.

Today, at the admission hearing on behalf of the petitioners, an unstamped and unregistered document is placed for perusal of the Court, which purports to be a lease deed executed on 05.01.1954 as ek sal lease. The lease is said to have been granted by one Chandramouli, who claimed to be a poojari, having hereditary rights over the land described as Sri Ganga Bala Tripura Sundari Sameta Sri Ramalingeswara swamy vari parampara dasyatapu archakapu nowkari sarvahinam. The lease is for a period of one year. No document is placed before this Court in support of the petitioners' assertion that the lease was extended from time to time. The lease deed dated 05.01.1954 is in favour of one Rathaiah, who is not a petitioner herein. The relationship that the petitioners have with Rathaiah is not pleaded. It is not asserted that leases were ever granted in favour of the petitioners following the due procedure mandated by the provisions of the Act and the Statutory Rules thereunder. It is not even pleaded as to when the lease was initially granted in favour of one or more or all the petitioners, whether lease deed was executed, for what period and when such lease was extended, whether there is a current and operational lease, and even whether the petitioners are the lawfully cultivating tenants under a duly drawn up lease deed for a period of not less than six years continuously, as required under Section 82(2) of the Act, for entitlement to the

benefits under the said provision.

The benefits under Section 82 of the Act are available only to persons who are landless poor and are the lawful cultivating tenants of endowment lands. Persons, who are not such cultivating tenants of endowment lands and qualified for the benefits in accordance with the provisions of the said provision, are not entitled to benefits under Section 82 of the Act.

In the aforesaid state of pleadings, the petitioners have not established any locus standi to assail the public auction notification dated 23.05.2006 issued by the fourth respondent proposing public auction for grant of leasehold rights of the agricultural lands belonging to the fourth respondent-Devasthanam. The petitioners, on the basis of the pleadings in the writ petition, appear to be mere encroachers and are liable to be evicted under Section 83 of the Act. In any event, they are not entitled to resist the public auction proposed by the fourth respondent-Devasthanam. If the petitioners desire, they may participate in the public auction and bid for grant of leasehold rights of the lands of the fourth respondent-Devasthanam by offering competitive bid at such public auction.

There are no merits in the writ petition. The writ petition is dismissed at the stage of admission. There shall be no order as to costs.

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20.09.2006

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